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Supreme Court, U.S.
FILED
JUN 3 1996
OFFICE OF THE CLERK

No. 96 446

In the Supreme Court
OF THE
United States

OCTOBER TERM 1995

OSCAR WILKERSON,
Petitioner,

vs.

ROSWELL LINCOLN MERCURY, INC.
A/K/A TRONCALLI JAGUAR, INC
FORD MOTOR COMPANY AND
FORD MOTOR CREDIT COMPANY
Respondent.

On Petition for Writ of Certiorari to
THE SUPREME COURT OF GEORGIA

PETITION FOR WRIT OF CERTIORARI

APPENDIX

Pro-se Oscar Wilkerson
2928 Cocklebur Trail
Decatur, GA 30034
(404) 289-0694

July 11, 1996

14 P

BACKGROUND

I affirm on March 1, 1995, The Superior Court of Fulton County, Georgia granted a Summary Judgement Motion that had no legal force. All witnesses to the Summary Judgement Motion are perjurers, thereby nullifying the Summary Judgement Motion. The decision was appealed to the Court of Appeals of Georgia on March 24, 1995. The Defendants to this action requested a complete record of the proceedings be sent to the Court of Appeals of Georgia, but he Trial Court withheld 199 pages of the records to this action making it impossible to clarify the four enumerated errors in the original Brief of May 26, 1995, which are: Error #1: The Trial Court made a reversible error in granting a Summary Judgement Motion that had no legal force. Every civil action motion made prior to trial may have supporting affidavits to stipulate facts relied upon. Pursuant Rule 6, Uniform Superior Court Rules. The affidavits presented in support of the Summary Judgement Motion are by perjurers as pointed out in the last paragraph of page 2 of the Rebuttal to Summary Judgement Motion in Oral Argument. A 60 page document of the 199 pages withheld by the Trial Court until August 9, 1995 (Appendix K) dated March 1, 1995.

Error #2: I affirm the Trial Court committed reversible error in denying our amended motion. The Court gave no legal reasons or justification for the denial. Therefore the legal conclusion is without justification or legal precedents. Without this motion there can be no torts. There cannot be an application of the broken laws of Georgia. There can be no damages. The Briefs cannot be processed lawfully. There can be no application to the Court for justice and no genuine issues to be tried. This was pointed out in the 5th paragraph on page one of the Rebuttal to Summary Judgement Motion in Oral Argument.

Error #3 I affirm the Trial Court committed reversible error in denying a Jury Trial by circumventing two (2) Uniform Superior Court Rules:

> RULE 6-6: Motion for Summary Judgement shall be filed sufficiently early so as not to delay the trial. No

> trial shall be continued by reason of the delayed filing of a Motion for Summary Judgement.

I affirm this civil action was firmly set for trial by final pre-trial order on June 22, 1994, for November 28, 1994. But no trial was held on November 28, 1994, reason unknown.

> [sic] RULE 8-5: Continuance will not be granted merely by agreement of counsel. In paragraph four (4) of the Rebuttal dated March 1, 1995, [sic] The Defense working in secret agreement with my lawyers office have made moves to circumvent a Jury Trial. First, by postponement of the November 28, 1994, trial date through my lawyers office. Second, contending my lawyer has no objection. Third, that my lawyer is not my lawyer because he has not filed Notice of Appearance or signed any Pleadings.

Error #4: I affirm the Trial Court committed reversible error in not permitting Appellant to act suri juris and present all things pertinent at the hearing on March 1, 1995. Such discrimination violates Georgia's constitution–several documents were not presented.

On March 1, 1995, I affirm we met in court at 8 a.m. but for reasons unknown, we didn't get started until 8:30 a.m. At the start of the hearing, counsel for the defense talked a few minutes about what we talked about at the Deposition August 5, 1994. Then the Court said "ok" Mr Wilkerson. I affirm first, I gave copies of the 60 page document entitled Rebuttal to Summary Judgement Motion in Oral Argument to the Court and the defense. Then I began to read the Rebuttal, however, before I finished reading, I was stopped by the judge and asked questions about the 18 hanging exhibits. Then, without hesitation, the judge stopped all questions, and said to the defense I grant your Summary Judgement Motion. The judge got up and walked out of the court room. I was denied the opportunity to present the Motion and Brief of the defense that carried three affidavits of perjurers in

support of the Summary Judgement Motion.

I was denied the opportunity to present the affidavit of Appellant confirming the perjury of the three Affiants in support of the Summary Judgement Motion. The alluding and rhetoric found in the Brief of the defense on pages 44 though 54 of the Rebuttal with marginal notes was not explained to the courts. There was no chance to do anything at this point, the case was over in the Trial Court. The torts in violation of the broken laws of Georgia remained imposed on Appellant with damages financially, mentally, physically and emotionally.

I affirm the 60 page document entitled Rebuttal to Summary Judgement Motion in Oral Argument was not received by the Court of Appeals until August 9, 1995, making the Briefs of May 26, 1995, impossible to have record support identifying the enumerated errors. Mere restatement of errors is not argument in contention (Wilkie vs State 153 Ga App 609 266 SE 2a 289 (1980)). So the enumerated errors were not restated on the Brief of May 26, 1995.

On July 6, 1995, Response Brief were filed in the Court of Appeals pointing out the misleading record identifying the Rebuttal to Summary Judgement Motion in Oral Argument as a affidavit item 82 on the Index Sheet to the Court of Appeals, also it was pointed out that the record was incomplete. In paragraph one (1), page two (2) of the decision of The Court of Appeals dated December 19, 1995:

> [sic] Wilkerson is prosecuting this appeal Pro-se contending in his first Enumeration of Errors that the Trial Court erred in granting the Defendants Motion for Summary Judgement.

That contention stands. Affidavits in the records proves the Affiants that supported the Summary Judgement Motion are perjurers. So the Summary Judgement Motion is without legal force. Paragraph one (1), page two (2) of the decision further states:

> [sic] He has also enumerated three other errors. However in his appellate Brief there are no citations or

> references to the record and the latter three enumerations are supported by neither argument no citation of authority.

Petitioner affirm he could not refer to the record because the Trial Court withheld 199 pages of pertinent records. So there was no record for reference to clarify the enumerated errors until a court order of July 25, 1995, with an oral motion sent the supplemented record on August 9, 1995, to the Court of Appeals. On August 17, 1995, a Supplemental Brief was filed clarifying all errors with reference to the record pursuant Rule 27 (3) (i), which states:

> [sic] Each enumerated error shall be supported by specific reference to the record or transcript. In the absence of such reference, the Court will not search for or consider such enumeration.

> Paragraph two (2), page two (2) of the decision dated December 19, 1995, [sic] Wilkerson's failure to support the latter three enumerations by argument or citation of authority violates Court of Appeals Rule 27 (c) (2) [sic] Any enumeration of error which is not supported in the Brief by citation of authority or argument shall be deemed abandoned.

The Court of appeals deemed the errors as abandoned because the Court circumvented 199 pages of supplemented record that included Rebuttal to Summary Judgement Motion in Oral Argument with six (6) affidavits. That document supported the Supplemental Brief entitled Citation of Pro-se appellant for Clarity. Therefore the Court of Appeals used only part of the record while making their decision. The Supplemental Brief filed August 17, 1995, was deleted by showing that Brief in the case history as a motion. Such action is in direct conflict with Georgia's constitution, paragraph one (1). The Rebuttal to Summary Judgement Motion in Oral Argument are the only minutes

to the hearing presenting prima facie truth and facts identifying the Affiants that are perjurers who supported the Summary Judgement Motion. That sixty (60) page document was circumvented completely by the Court of Appeals. Such departure from the accepted course of judicial proceedings calls for an exercise of this courts supervisory powers.

> Paragraph three (3), page two (2) of the decision dated December 19, 1995 [sic] We do note that in their Appellate Brief, the Defendants argue that they were entitled to Summary Judgment based on citations to the pages of the record wherein appear an affidavit by an RLM Sales Manager.

Petitioner affirm paragraph three (3), page two (2) of the decision dated December 19, 1995, is irrelevant. The RLM Sales Manager is a perjurer as substantiated in the Rebuttal to Summary Judgement Motion in Oral Argument. Perjurers are not used in the justice system. But the Court of Appeals used a perjurer in support of their decision. Such action is not an accepted and usual course of judicial proceedings.

The Justices of the Third Division affirmed the decision of December 19, 1995. A decision that had perjurers in support. A decision that was in direct conflict with Georgia's constitution and the constitution of the United States.

Motion for Reconsideration was filed with Briefs on December 21, 1995, three days after the decision. On January 3, 1996, Motion for Reconsideration was denied. But no notice of the denial was received by Petitioner until January 22, 1996. I affirm on January 22, 1996, Petitioner called the Court of Appeals to ask if any action had taken place in my case and was told my Motion for Reconsideration was denied January 3, 1996. I affirm the only denial Petitioner received was the denial by hand delivery on January 22, 1996.

On January 24, 1996, Petition to the Supreme Court of Georgia for Writ of Certiorari was filed only 2 days after receiving the denial for

the Motion for Reconsideration. The petition included more than eighty (80 pages of documents to the Supreme Court of Georgia.

CASE DISMISSED

On April 12, 1996, The Supreme Court of Georgia dismissed the Petition for Certiorari in this case without ordering a complete trial of the issues involved, thereby being in direct conflict with Georgia's constitution, paragraph 1 and the 14th Amendment to the Constitution of the United States.

Motion for Reconsideration was filed April 19, 1996, because this case was never presented to a judge or jury for a complete trial. So there is nothing to review except the enumerated errors. Pursuant O.C.G.A. 5-6-48 (F) which require that the appeal be considered where it is apparent from the enumeration of errors what errors are sought to be asserted — Bruce Tile Co. vs Copelan 185 GA App 469 364 SE 2a 603 (1988). The errors asserted in this appeal was clarified on August 17, 1995, with Citation of Pro-se Appellant for Clarity, supported with the supplemented record of August 9, 1995. Only after August 9, 1995, could the enumeration of errors be clarified with record support pursuant Rule 27 (c) (3) (i) Court of Appeals. On May 3, 1996, the Supreme Court of Georgia denied our Motion for Reconsideration, thereby sanctioning denial of our constitutional right to a trial by jury.

I affirm there have been no trial in this case.

PURSUANT RULE 14.1(i) U.S. SUPREME COURT

Petitioner affirm the State Court of first instance granted a Summary Judgement Motion that had no legal force as explained in the first paragraph of page one of the background information of this Appendix. In the Superior Court of Fulton County – State of Georgia

ORDER

> [sic] This case came before the Court on Defendants motion for Summary Judgement on all issues, after careful consideration of the pleadings the arguments of counsel for Defendants and plaintiff pro-se and the evidence of record. This Court granted defendants Motion for Summary Judgement on all counts and judgement shall be entered in favor of the Defendants. So ordered this 2 Day of March 1995.
>
> Judge Frank M. Eldgridge.

Petitioner affirm that record confirm perjury by witnesses to the Summary Judgement Motion, nullifying the Summary Judgement Motion. The Trial Court ignored O.C.G.A. 9-11-56 permitting the error to stand.

> [sic] Trial judge has inherent power during same term of Court in which judgement is rendered, to revise, correct, revoke, modify or vacate such judgement even upon his own motion for purpose of promoting justice and in exercise of sound legal discretion. Lecraw vs. Atlanta Art Alliance, Inc. 126 GA App 656 191 S.E. 2a 572 (1972).

The decision was appealed to the Court of Appeals of Georgia on March 24, 1995, because the Summary Judgement Motion was granted without legal force, and three (3) other reversible errors were made at hearing on March 1, 1995. All errors were timely clarified pursuant Rule 27-C-3(i) Court of Appeals, on August 17, 1995, with Supplemental Brief. That Brief also pointed out in error #3 that the Trial Court made moves to prevent a Jury Trial. Conflicting state constitution, U.S. Constitution

Third Division
Chief Judge C. J. Beasley
Judge P. J. Pope
Judge J. Ruffin

December 19, 1995
Not to be officially reported

[sic] In the Court of Appeals of Georgia
A95A1866 Wilkerson vs Roswell Lincoln Mercury Inc., et. al.

Beasley Chief Judge

Wilkerson filed this action against Roswell Lincoln Mercury Inc. (RLM) and others. In the complaint he stated he owned a 1988 Lincoln TownCar prior to entering into an agreement with RLM to lease a 1991 Lincoln TownCar. He alleged that the 1988 TownCar was assigned a cash value of $12,441.00 by salesman for RLM, and that RLM agreed that his equity in the 1988 TownCar would be applied to reduce the residual value of the 1991 TownCar at the end of the leased term in the event he exercise his option to purchase the 1991 TownCar. Asserting in part that RLM breached this agreement and defrauded him by concealing the true facts concerning the manner in which the 1988 TownCar was to be treated under the lease, Wilkerson sought damages.

Excerpts from the first page of the opinion of the court of Appeals are written above. They are irrelevant because there have been no trial. Page 3 of the opinion is irrelevant also because the opinion continues in discussion that have not been litigated; and no judgements have been made. Page 2 of the opinion of the Court of

Appeals is discussed completely starting in the third paragraph of page 3 of the background of this appendix; and continuing through pages 4 and 5 of the background information.

The last paragraph of page 5 of the Appendix points out on January 24, 1996, Petition to the Supreme Court of Georgia for Writ of Certiorari was filed only two (2) days after receiving the denial for the Motion for Reconsideration.

On April 12, 1996, the Supreme Court of Georgia dismissed the case without ordering a complete trial. On April 19, 1996, Motion for Reconsideration was filed with Brief in the Supreme Court of Georgia.

On May 3, 1996, the Supreme Court of Georgia denied our Motion for Reconsideration—sanctioning denial of our state constitutional rights and denial of rights under the Fourteenth Amendment to the U.S. Constitution, to a jury trial. The denial to a jury trial was first mentioned on March 1, 1995, in the Rebuttal to Summary Judgement Motion in Oral Argument on page 1. Also see paragraphs 1 and 2 of page 2 of the background information of this Appendix.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office

Atlanta

Date: April 12, 1996

Case No 596C0719

Oscar Wilkerson vs roswell Lincoln Mercury, Inc. a/k/a Troncalli Jaguar, et. al. Court of Appeals Case No A95A1866

The Supreme Court today dismissed the Petition for Certiorari in this case. All the Justices concur.

Sincerely,

Sherie M. Welch, Clerk

ORDERS

SUPREME COURT OF GEORGIA

Case No S96C719

Atlanta, May 3, 1996

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

Oscar Wilkerson v Roswell Lincoln Mercury Inc. a/k/a Troncalli Jaguar Inc. et. al.

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Sincerely,

Sherie M. Welch, Clerk

Respectfully,

Oscar Wilkerson

Oscar Wilkerson
2928 Cocklebur Trail
Decatur, GA 30034
(404) 289-0694

December 19, 1995

IN THE COURT OF APPEALS OF GEORGIA
THIRD DIVISION
BEASLEY, C.J.,
POPE, P.J., RUFFIN, J.

Bea-128

A95A1866

WILKERSON

v.

ROSWELL LINCOLN MERCURY, INC., *et al.*

BEASLEY, Chief Judge.

Wilkerson filed this action against Roswell Lincoln Mercury, Inc. (RLM), and others. In the complaint, he stated that he owned a 1988 Lincoln Towncar prior to entering into an agreement with RLM to lease a 1991 Lincoln Towncar. He alleged that the 1988 Towncar was assigned a cash value of $12,441 by a salesman for RLM, and that RLM agreed that this equity in the 1988 Towncar would be applied to reduce the residual value of the 1991 Towncar at the end of the lease term in the event he exercised his option to purchase the 1991 Towncar. Asserting, in part that RLM breached this agreement and defrauded him by concealing the "true facts" concerning the manner in which the 1988 Towncar was to be treated under the lease, Wilkerson sought damages.

Shortly before Wilkerson's first attorney filed a motion to withdraw, he filed an amended pro se complaint, al-

leging, among others things, that RLM had committed various criminal offenses.

Wilkerson is prosecuting this appeal pro se, contending in his first enumeration of error that the trial court erred in granting the defendants' motion for summary judgment. He has also enumerated three other errors. However, in his appellate brief, there are no citations or references to the record, and the latter three enumerations are supported by neither argument nor citation of authority. Although the defendants have noted these omissions in Wilkerson's brief, his reply brief is likewise deficient.

Wilkerson's failure to support his latter three enumerations by argument or citation of authority violates Court of Appeals Rule 27(a)(3) and they are treated as abandoned, Rule 27(c)(2); *Stinson v. Allstate Ins. Co.*, 212 Ga. App. 179, 182(3) (441 SE2d 453) (1994). Wilkerson's failure to support his statement of facts and of the proceedings below by citations to the record violates Rule 27(a)(1). His failure to support the remaining enumeration of error by references to the record violates Rule 27(c)(3)(i). We will not search for or consider the enumeration. *Atlanta Gas Light Co. v. Redding,* 189 Ga. App. 190(2) (375 SE2d 142) (1988).

We do note that in their appellate brief, the defendants argue that they were entitled to summary judgment, based on citations to the pages of the record wherein appear an affidavit by an RLM sales manager, the original lease executed by Wilkerson, a vehicle order form signed by Wilkerson, and Wilkerson's deposition testimony. The order form lists the total cash price of the 1991 Towncar as $35,647. In his affidavit, the sales manager testified that Wilkerson's equity in his 1988 Towncar became a trade-in allowance that was applied to the 24-month lease to achieve a monthly payment of $500 exclusive of use or lease tax and that otherwise Wilkerson's monthly payments would have exceeded $900.

Although $900 may appear to be an excessive monthly payment for the lease of a car in the $35,000 price range, it appears from the foregoing parts of the record that RLM is not chargeable with fraud, breach of contract, or the criminal offenses alleged by Wilkerson. The affidavit, order form, and deposition testimony do also show that the agreed-upon gross trade-in value of Wilkerson's 1988 Towncar was $12,383.67 (incorrectly stated as $11,242.55 in the lease, thereby resulting in a $1,142.12 refund to Wilkerson). The lease and deposition testimony show that a net trade-in allowance of $9,435.42 was applied to the initial charges due under the lease, that Wilkerson was given the option to purchase the 1991 Towncar at the end of the lease for $17,474, and that he declined to exercise his option to purchase the car at that price.

Judgment affirmed. Pope, P.J., and Ruffin, J., concur.